

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

I. Amendments to the Claim

The claims have been amended as follows. Claim 1 has been amended to include the letter “B” in formula (I) to indicate the B ring. Support for addition of “B” can be found in original claim 1.

Claim 1 has also been amended to delete “Z is N or --CH--,” “fluoro,” “chloro,” and “methyl,” “halomethyl,” “monohalomethyl,” “trihalomethyl,” “dihalomethyl,” “dichloromethyl,” “trifluoromethyl,” “methoxy,” “i-propoxy,” and “N” from the definition of U and T. In addition, the term “alkyl” has been replaced with “C₁-C₁₅ alkyl.” Support for replacing “alkyl” with “C₁-C₁₅ alkyl” can be found on page 7, lines 10-11 of the specification.

Claims 41 and 43 have been amended to make “salts, hydrates, and solvates” singular (consistent with claim 1).

Further, claim 15 has been amended to depend on claim 1, and claim 42 has been amended to delete “halo.”

Claims 44 has been amended to include the structures of Fig. 1 and to delete reference to IC₅₀. Also, the term “assey” has been replaced with “assay.”

Finally, claim 45 has been canceled.

No new matter has been added by way of the amendments to the claims.

II. Claim Rejection under 35 U.S.C §112, second paragraph

The Examiner rejected claims 1, 5-12, 15-23 and 42-45 for being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Specifically, the Examiner alleged that claims 1 and 5-12 are missing the B ring; claims 1 and 42 improperly contain radicals “alkyl” and “halogen” as generic and subgeneric; claims 15-23 are improperly multiple dependent; claims 42 and 43 are improperly dependent on claim 1 because claims 1 does not include plural salts, hydrates or solvates; and claims 44 and 45 are identical to claim 1.

Applicants have amended claims 1, 15, and 42 to clarify what is being claimed. Particularly, claim 1 has been amended to delete “fluoro,” “chloro,” and “methyl,” “halomethyl,”

“dihalomethyl,” and “dichloromethyl,” and to add the letter “B” in formula (I) to indicate the B ring. Claims 41 and 43 have also been amended to recite the singular of salts, hydrates, and solvate, consistent with claim 1 from which they depend. Further, the term “halo” has been deleted from claim 42. Claim 15 has been amended to depend from claim 1 and make claims 15-23 proper dependent claims.

Regarding claims 44 and 45, Applicants have canceled claim 45, and include the structures of Fig. 1 in claim 44 as well as delete reference to IC₅₀.

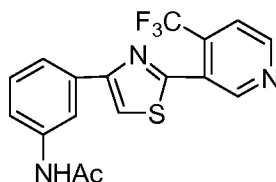
Accordingly, the claims as amended are definite and particularly claim the subject matter regarded as the invention. Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C §112, second paragraph.

III. Claim Rejection under 35 U.S.C §102(b)

The Examiner rejected claims 1, 3, 6, and 58 under 35 U.S.C. §102(b) as allegedly being anticipated by WO 02/46186 (“the ‘186 publication). The Examiner asserts that the ‘186 publication discloses the claimed compounds. Further, the Examiner alleged that RN 435272-05-02 anticipates structural formula (I) of the claims when B or E is N; A is CR² or G is CR⁶; X is S; Z is N; R¹¹ is H; and R¹² is alkyl.

Applicants respectfully disagree with the Examiner and submit that the claims as amended are not anticipated by the ‘186 publication. For prior art to anticipate under section 102, every element of the claimed invention must be identically disclosed in a single reference. Corning Glass Works v. Sumitomo Electric, 9 U.S.P.Q.2d 1962, 1965 (Fed. Cir. 1989). Applicants respectfully submit that the ‘186 publication does not anticipate the claims because the ‘186 publication does not describe each and every element of the claims.

The Examiner asserted that the compound RN 435272-05-02,



which is also disclosed as Example 18 in EP 1348706, anticipates structural formula (I) of the claims when B or E is N; A is CR² or G is CR⁶; X is S; Z is N; R¹¹ is H; and R¹² is alkyl. However, the definition of R¹² includes “substituted alkyl” but not simply “alkyl.” Thus, RN 435272-05-02 does not anticipate the claims because it falls outside the scope of the claims.

In view of the above discussion, the claims are not anticipated by the '186 publication because the '186 publication does not describe each and every group recited in the claims. Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C §102(b).

IV. Claim Objection

The Examiner objected to claims 2, 4, 13-14 and 24-41 for being dependent upon a rejected base claim. The Examiner asserts that claims 2, 4, 13-14 and 24-41 would be allowable if rewritten in independent form including all the limitations of the base claims and any intervening claims.

As discussed above, Applicants have either amended the claims or presented explanations to overcome the rejections of the base claims. Accordingly, claims 2, 4, 13-14 and 24-41 do not need to be rewritten in independent form to be allowable. Thus, the objections to the claims are moot and Applicants respectfully request that the Examiner withdraw the objections.

V. Conclusion

In view of the above discussion and amendments, the Applicants respectfully submit that the claims are in allowable condition. A Notice of Allowance is respectfully requested.

Should the Examiner believe that a discussion of this matter would be helpful, the Examiner is invited to call the undersigned at 312-913-0001.

Respectfully submitted,
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Dated: May 17, 2006

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